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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,460	01/14/2002	Lee Edward Ciampi	ABINITI.001CP1	3155

20995 7590 11/18/2003

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EXAMINER

BOS, STEVEN J

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 11/18/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/047,460

Applicant(s)

CIAMPI ET AL.

Examiner

Steven Bos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-3, 21-28 and 32-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-3, 21-28 and 32-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 2, 2003 has been entered.

In claims 1,21, "said ferrate is used in the oxidization, synthesis, disinfection, cleaning, plating, encapsulating, or coagulating an object" is ungrammatical and awkward. It appears that "oxidization" and "disinfection" were intended to be --oxidizing-- and --disinfecting-- respectively and that "an object" was intended to be --of an object --.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1,21 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for "the ferrate is contacted with the object it is to oxidize, synthesize, disinfect, clean, plate, encapsulate, or coagulate", does not reasonably provide enablement for "said ferrate is used in the oxidization, synthesis, disinfection, cleaning, plating, encapsulating, or coagulating an object". The specification does not enable any person skilled in the art to which it pertains, or with

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which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims. The instantly claimed use of the ferrate is of much broader scope than the disclosed contact of the ferrate with an object.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1,21, "said ferrate is used in the oxidization, synthesis, disinfection, cleaning, plating, encapsulating, or coagulating an object" is indefinite as to what the ferrate is used for, ie. is it used for barter or for sale for the required or desired ferrate?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,21-25,27,28,32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minevski '788.

Minevski teaches the instantly claimed ferrate production process. See cols. 5-6. The ferrate produced is then used in the oxidation of aluminum by immersing an aluminum plate into the ferrate solution. See examples 2, 3. The site of use of the

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ferrate appears to be proximal (as is instantly defined in paragraph 0048) to where the ferrate was made since the ferrate is prepared and then the aluminum panels are immersed in the ferrate solution. The ferrate is taught to be used without stabilizing agents which would suggest that the ferrate solution is used proximal to where it was made otherwise it would not be effective in its taught use as an oxidant. In any event, the ferrate would appear to be used well before it reaches its half-life of decomposition otherwise it would not be effective for the oxidation process for which it is taught to be used.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Minevski '788 as applied to claim 1 above, and further in view of Deininger '573.

Minevski may differ in not teaching the use of ferric chloride.

Deininger teaches a similar process of making ferrate in which ferric chloride is used. See example 1.


It would have been obvious to one skilled in the art to use ferric chloride to make ferrate in the process of Minevski because Deininger teaches such use in a similar process of making ferrate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Bos whose telephone number is 703-308-2537. The examiner can normally be reached on M-F, 8AM-6PM but is on increased flexitime sch.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 703-308-3837. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read 'S. Bos' with a stylized flourish at the end.

Steven Bos
Primary Examiner
Art Unit 1754

sjb